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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/764,010	01/22/2004	Eugene J. Alexander	6750-0007.02 SU98-U01.US1	8938
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36806 7590 08/01/2006
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EXAMINER

JUNG, WILLIAM C

ART UNIT	PAPER NUMBER
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3768

DATE MAILED: 08/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER
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20060530

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

See Attached

37 CFR 1.105 REQUIREMENT FOR INFORMATION

1. Applicant (or the assignee of this application if the assignee has undertaken the prosecution of the application) is required under 37 CFR 1.105 to provide the following information that the examiner has determined is reasonably necessary to the examination of this application.

2. There are numerous other co-pending applications and issued patents, which disclose and claim very similar and/or identical subject matter. In accordance with 37 CFR 1.105 and MPEP 704.11(a) subsection G, applicant (or the assignee) is respectfully requested to disclose all co-pending applications and related patents (please see the non-exhaustive list below of applications and issued patents that the USPTO believes may be related) and identify the specific claims of those applications and/or patents which may present double patenting issues with the instant application claims. This requirement is reasonably necessary to examination because, based on an initial review of the applications, there is a significant degree of overlap in claimed subject matter, thus requiring an analysis of commonality of claimed subject matter to determine patentability under 35 USC 101 double patenting and/or obviousness type double patenting. For example, claims 1-33 of application 10/764,010 differ from claims 1-97 of application 10/704,208 in only the obvious variation of applying therapy based on method to obtain an electronic image of the joint, more specifically the thickness of the cartilage layer between the knee and evaluating the curvature, geometry, biochemical content, to characterize normal and diseased tissue. The application of therapy in 10/704,208 is specified in claims 14-16 is for implantation of replacement cartilage. However, specific

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method as claimed in claims 14-16 are nonetheless type or therapy performed based on the information described above. Therefore, the invention as claimed in current application is in obvious variation of generic therapy on joint diseases. Because the applicant (or the assignee) is presumably far more cognizant of the contents of the claims in these applications than any Office staff, and has access to the source documents by which such comparison could be done better than within the Office, it is reasonable to require the applicant to provide the information needed to determine the commonality among the claims.

3. Should applicant (or the assignee) believe that Double Patenting exists, then applicant (or the assignee) is invited to file Terminal Disclaimers and/or amend the currently pending claims in the interest of expediting the prosecution of the current application. Applicant (or the assignee) should note that a terminal disclaimer is effective to overcome an obviousness type double patenting rejection, but will not overcome a "same type" double patenting rejection under 35 U.S.C. § 101.

4. Non-exhaustive list of possible related co-pending applications and patents:

09/882,363 (US 20020087274 A1)
09/953,531 (US 20020147392 A1)
10/157,745 (US 20030015208 A1)
10/681,750 (US 20040133276 A1)
10/681,749 (US 20040138754 A1)
10/704,325 (US 20040153079 A1)
10/752,438 (US 20040204760 A1)
10/724,010 (US 20040236424 A1)
10/753,976 (US 20040242987 A1)
10/944,478 (US 20050148860 A1)
10/997,407 (US 20050267584 A1)
10/160,667 (US 20030055502 A1)
10/305,652 (US 20030216669 A1)
09/953,373 (US 20020177770 A1)
US 6,799,066 B2


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5. This requirement is subject to the provisions of 37 CFR 1.134, 1.135 and 1.136 and has a shortened statutory period of 2 months. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William Jung, Ph.D. whose telephone number is 571-272-4739. The examiner can normally be reached on Mon. - Fri., 8:00 a.m.-6:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eleni Mantis-Mercader can be reached on 571-272-4740. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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